

**Policy Issues**

**Issue # 1      Reasonable Accommodations Procedures**

§113.0103      Definitions

*Disabled Person*, pursuant to the Fair Housing Amendments Act of 1988, means any person who has a physical or mental impairment that substantially limits one or more major life activities; anyone who is regarded as having such impairment; or anyone who has a record of such impairment.

*Reasonable Accommodation*, pursuant the Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, means accommodations necessary to afford *disabled persons* an equal opportunity to use and enjoy a dwelling.

§126.0402      When a Neighborhood Development Permit Is Required

(j)      A Neighborhood Development Permit is required for existing *development* requesting deviations for the purposes of *reasonable accommodations* as described in Section 131.0466(?)

§131.0466      Deviations from Development Regulations for Reasonable Accommodations

Deviations from the applicable development regulations may be approved in accordance with Process One for existing *development* requesting *reasonable accommodations* for *disabled persons* pursuant to the Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, subject to the following:

- (a)      the *development* will be used by a *disabled person*;
- (b)      the deviation request is necessary to make specific housing available to a *disabled person* and complies with all applicable development regulations to the maximum extent feasible;
- (c)      the deviation request will not impose an undue financial or administrative burden on the City;

- (d) deviations from the following regulations may be permitted:
  - (1) Minimum *setback* requirements; and
  - (2) Minimum *parking* requirements.
- (e) Deviations from the following regulations may be permitted with a Neighborhood Development Permit in accordance with Process Two:
  - (1) Minimum *floor area ratio* requirements;
  - (2) Angled *building envelope* plane requirements, not to exceed a maximum *structure height* of 30 feet;
  - (3) Accessory *structure* requirements

**Issue # 2      SRO Regulations Hotel Regulations**

§113.0103    Definitions

*SRO (single room occupancy) hotel* means a ~~hotelfacility of which at least 20 percent of the guest rooms are~~ contains five (5) or more SRO hotel rooms. An *SRO hotel* does not include any institution in which persons are housed or detained under legal restraint or hospitalized or otherwise under medical, nursing or psychiatric care, or fraternity or sorority houses.

*SRO hotel room* means a *guest room* that is at least 70 square feet but not more than 220 square feet which may have private or shared sanitary facilities but does not contain a *kitchen* and is rented at or below 30% of 50% of the monthly median income adjusted for a household size of one as defined by the U.S. Department of Housing and Urban Development for the Standard Metropolitan Statistical Area of San Diego, California (\$276 in 1985) and is not an office, lobby, hallway, stairway, storage or equipment room or other area within the structure which may not be legally let or rented for sleeping purposes.

## §126.0402 When a Neighborhood Development Permit Is Required

- (j) A Neighborhood Development Permit is required for *development* proposing the demolition, conversion, or rehabilitation of an *SRO hotel* or *SRO hotel room*, as described in ~~Section 143.0520~~ Chapter 14, Article 3, Division 5.

## §143.0515 When SRO Hotel Regulations Apply

This division applies to any *development* that proposes the demolition or rehabilitation of all or part of ~~an *SRO hotel*~~ or *SRO hotel rooms* or the conversion of all or part of an *SRO hotel* or *SRO hotel room* to another use, except as provided in Section 143.0520 in accordance with Table 143-05A.

**Table 143-05A**  
**Applicability of SRO Hotel Regulations**

<u>Type of Development Proposal</u>	<u>Applicable Sections</u>	<u>Required Development Permit/Decision Process</u>
<u>Demolition, rehabilitation or conversion of all or part of an existing <i>SRO hotel</i> or <i>SRO hotel room</i></u>	<u>143.0520, 143.0530, 143.0540, 143.0550, 143.0560</u>	<u>NDP/Process 2</u>
<u>Development of new <i>SRO hotels</i> or <i>SRO hotel rooms</i></u>	<u>See the development regulations for Visitor Accommodations</u>	<u>No permit required by this division</u>

§143.0520 Exemptions from SRO Hotel Replacement Housing Regulations

- (a) The regulations in sections 143.0540 ~~and 143.0550~~ do not apply to the following demolitions or conversions:

(1)-(3) [No change]

- (b) [No change]

## §143.0530 Administration of SRO Hotel Regulations

~~The San Diego Housing Commission or successor agency, as the agency responsible for administering the *SRO hotel* regulations, shall do the following:~~

- (a) ~~Review each application for a permit to demolish or convert a hotel to identify any *SRO hotel* or *SRO hotel room* that is not exempt from these~~

~~regulations under Section 143.0520:~~

- ~~(b) Advise the *applicant* of the requirements of these regulations.~~
- ~~(c) Review each replacement plan prepared by an *applicant* and advise the *applicant* as to whether or not the plan satisfies the requirements of these regulations. A replacement plan is a plan to replace *SRO hotel rooms* that is prepared by the *applicant*, approved by the San Diego Housing Commission, and incorporated into a Housing Replacement Agreement.~~
- ~~(d) For each replacement plan that meets the requirements of these regulations, draft and execute with the *applicant*, a Housing Replacement Agreement that incorporates the terms of the replacement plan. A Housing Replacement Agreement is a written agreement between the San Diego Housing Commission and the *applicant* specifying the manner in which the housing replacement requirements in Section 143.0550 will be met.~~
- ~~(e) Prepare and implement a system to monitor compliance of the Housing Replacement Agreements with the regulations in this division.~~
- ~~(f) Manage the City of San Diego Single Room Occupancy Hotel Replacement Fund and cause replacement units to be acquired, constructed, or rehabilitated.~~

§143.0530 Development Review Procedures and Administration of SRO Hotel Regulations

- (a) The City Manager shall review all *development permit or construction permit* applications for demolition, rehabilitation or conversion of visitor accommodations to determine whether the proposed *development* affects all or part of an existing *SRO hotel*. If it is determined that an *SRO hotel* is affected, the *applicant* will be advised of the requirement to obtain a Neighborhood Development Permit and will be referred to the San Diego Housing Commission.
- (b) A Neighborhood Development Permit to convert or demolish all or part of an *SRO hotel* or *SRO hotel room* shall not be issued until *applicant* (1) enters into a Housing Replacement Agreement with the San Diego Housing Commission in accordance with Section 143.0550; and (2) the San Diego Housing Commission confirms that *applicant* has complied with the relocation requirements of Sections 143.0550 and 143.05\_\_\_\_, or 180 days

has lapsed with no Housing Commission recommendation.

- (1) Advise the *applicant* of the requirements of the *SRO Hotel Regulations* (Chapter 14, Article 3, Division 5 of the Land Development Code).
- (2) Review the *development permit* application and make a written recommendation to the City Manager within 180 days of the date the application was *deemed complete* if the *applicant* has not complied with the requirements of this division. If no written recommendation is provided by the Housing Commission within the 180 day-period the recommendation shall be for approval.
- (3) Negotiate a Housing Replacement Agreement that satisfied the requirements of Section 143.0540.
- (4) Prepare and implement a system to monitor compliance of the Housing Replacement Agreements with the regulations in this division.
- (5) Manage the City of San Diego Single Room Occupancy Hotel Replacement Fund and cause replacement units to be acquired, constructed, or rehabilitated.
- (6) The San Diego Housing Commission shall establish fees which shall be paid by any *applicant* who seeks to withdraw *SRO hotel rooms* from rent or lease. The Commission shall set the fees so as to recover all costs of processing the permit request and administering this division. The fees shall be paid on or before service of the thirty (30) day notice to terminate required by Section 143.0560(d).

~~SEC. 143.0550~~§143.0540      Housing Replacement Requirement for SRO Hotel Rooms  
[No change in text of section.]

~~SEC. 143.0560~~§143.0550      SRO Hotel Relocation Provisions  
[No change in text of section.]

~~SEC. 143.0570~~§143.0560      SRO Hotel Relocation Assistance Benefits

- (a) Tenants' Rights

Each low income or very low income tenant of an SRO hotel or SRO hotel room to be demolished, converted or rehabilitated who has resided in the SRO hotel or SRO hotel room for at least ~~30~~90 consecutive calendar days preceding the permit application date is entitled to the benefits and rights described in Section 143.0560(c) through (e). Each low income or very low income tenant of an SRO hotel or SRO hotel room to be demolished, converted or rehabilitated who has resided in the SRO hotel or SRO hotel room for at least 90 consecutive calendar days preceding the permit application date shall be considered a long-term tenant for purposes of this division and is also entitled to the benefits and rights described in Section ~~143.0570~~143.0560(b) through (e). ~~Each tenant of an SRO hotel to be demolished, converted, or rehabilitated who has resided in the SRO hotel for at least 30 consecutive calendar days preceding the permit application date is entitled to the benefits and rights described in Section 143.0570(c) through (e).~~

(b) Financial Assistance

- (1) Except as provided in Section 143.0560(b)(3), each long-term tenant is entitled to ~~one lump sum payment in an amount equal to two times the tenant's average monthly rent for the preceding 12 months if the SRO hotel is being demolished or converted or an amount equal to the tenant's average monthly rent for the preceding 12 months if the SRO hotel is being rehabilitated.~~ In addition, each long-term tenant is entitled to a rent rebate of \$10.00 per month for each month's residency in excess of 90 calendar days, not to exceed \$210.00. Length of residency shall be calculated from the date of initial occupancy to the date of application for a building or other permit. reasonable moving expenses determined in accordance with Government Code section 7262 and to replacement housing costs in an amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 48 months.
- (2) The applicant shall pay the financial benefits ~~shall be paid by the SRO hotel owner~~ to the long-term tenant within 5 business days of written notice by the tenant that ~~he or she will vacate the premises will be vacated on a tenant date specified by him or her date,~~ but no more than 30 calendar days in advance of the move-out date. ~~Written notice forms approved by the San Diego Housing Commission shall be provided to the long-term tenants by the owner.~~

- (3) If the *SRO hotel* or *SRO hotel room* is being rehabilitated, the financial assistance benefits required by ~~this section~~ Section 143.0560 need not be provided if comparable accommodations, as defined by the California Code of Regulations, are provided on or off the *premises* to the long-term tenants during the period of rehabilitation. The *applicant* shall give a right of first refusal to relocate to a rehabilitated ~~unit~~ *SRO hotel* or *SRO hotel room* to each long-term tenant who qualifies as *very low income*. When comparable living space is provided, the *applicant* shall pay each such affected long-term tenant all reasonable moving and related expenses.
- (c) Technical Assistance  
[No change in text.]
- ~~(d) Extended Tenancy Period~~
- ~~The owner shall provide at least a 90-calendar-day notice of termination of tenancy. The notice of termination of tenancy may not be given before the date of the notice required by Section 143.0580. To terminate a tenancy for the purpose of demolition, conversion, or rehabilitation of an *SRO hotel* or *SRO hotel room* regulated under the *SRO hotel* regulations, the owner must fully comply with Sections 143.0560, 143.0570, and 143.0580.~~
- (d) Notice to Tenants of Termination of Tenancy
- The *applicant* shall provide at least a 30-calendar day notice of termination of tenancy. The notice of termination of tenancy may not be given before the date of the notice required by Section 143.0550.
- (e) Evictions
- (1) Notwithstanding any provision to the contrary, no *development or construction permit* to demolish, convert, or rehabilitate all or part of an *SRO hotel* ~~or *SRO hotel room*~~ shall be issued until 180 calendar days have elapsed since the last eviction or removal of a tenant unless the eviction was for one of the following:
- (A) through (D) [No change in text.]
- (2) [No change in text.]

~~SEC. 143.0580~~ §143.0570 SRO Hotel Relocation Assistance Notice

- (a) Before submittal of an application for a permit for or related to the demolition, conversion, or rehabilitation of all or part of an *SRO hotel* or *SRO hotel room*, the owner applicant must deliver a Relocation Assistance Notice to each tenant. The notice shall clearly state the benefits established by Section ~~143.0570~~ 143.0560 for all tenants.
- (b) [No change in text.]
- (c) The notice required by this section shall be delivered to each tenant personally or by mail, and ~~written acknowledgment of service on and receipt by the tenants shall be secured~~ the applicant shall obtain and provide to the City written acknowledgment of service on and receipt by the tenant.

~~SEC. 143.0590~~ §143.0580 SRO Hotel Long-Term Tenant Rights

A long-term tenant of an *SRO hotel*, as described in Section ~~143.0570~~ 143.0560(a), who is injured by any violation of these regulations, shall be entitled to declaratory relief, injunctive relief, and damages in a civil action. Counsel for the aggrieved party shall notify the Office of the City Attorney of San Diego of any action filed pursuant to this section 143.0580.

§143.0590 Presumption for Failure to Comply

- (a) It is unlawful to demolish or convert *SRO hotel rooms* inconsistent with the requirements of this division.
- (b) If an owner converts, demolishes, or rehabilitates an *SRO hotel* or any unit in an *SRO hotel* without complying with the provisions of this division, each unit converted, demolished or rehabilitated shall be presumed to have been an *SRO hotel room* and the owner shall be required to deposit into City of San Diego Housing Trust Fund the amount that would have been required as relocation assistance pursuant to section 143.0540(b)(1). The presumption shall be rebuttable upon submittal of written evidence that the owner complied with the relocation requirements of this division.

**Issue # 3 Companion Units**

## §141.0302 Companion Units

(a) through (q) No change.

(r) Occupancy of a *premises* containing a companion unit is subject to the following:

(1) and (2) No change

(3) ~~The companion unit may be occupied by a maximum of two persons at least one of whom shall be related to the owner, or a senior citizen, or a person with a disability.~~**Issue #4 Residential Open Space Zones in Urbanized Areas**

## §131.0231 Development Regulations Table for Open Space Zones

The following development regulations apply in the open space zones as shown in Table 131-02C.

**Table 131-02C**  
**Development Regulations of Open Space Zones**

Development Regulations [See Section 131.0230 for Development Regulations of Open Space Zones]	Zone Designator	Zones					
	1st & 2nd »  3rd »  4th »	OP-		OC-	OR-		OF <sup>(1)</sup> -
		1-	2-	1-	1-	1-	1-
		1		1	1	2	1
Setback Requirements							
Min Front Setback (ft)		--		--	<del>25</del> 15 <sup>(6)</sup>	25	--
Min Side Setback (ft)		--		--	<del>20</del> 8 <sup>(7)</sup>	20	--
<u>Min Street Side Setback</u>		--		--	10 <sup>(7)</sup>	<u>20</u>	--
Min Rear Setback (ft)		--		--	<del>25</del> 20 <sup>(8)</sup>	25	--
Max Structure Height (ft)		--		--	30	30	--
Max Lot Coverage (%)		--		--	<del>40</del> --	10	--
Max Floor Area Ratio		--		--	<del>0.40</del> 0.45	0.10	--

Footnotes for Table 131-02C

1-5 [No change]

<sup>6</sup> See Section 131.0260(a).

<sup>7</sup> See Section 131.0260(b).

<sup>8</sup> See Section 131.0260(c).

§131.0240 Maximum Permitted Residential Density in Open Space Zones

(a) Within the OR-1-1 zone, an exception to the permitted residential density of one *single dwelling unit* per *lot* may be requested ~~as a rural cluster development~~ through a Planned Development Permit in accordance with Process Four subject to the following:

(1) [No change]

(2) Dwelling units shall be clustered within the allowable development area as described in Section 131.0250(a) and need not be located on individual *lots* provided the ~~overall density does not exceed one dwelling unit per 10 acres.~~

(3) [No change].

(b) [No change]

§131.0260 Setback Requirements in the OR-1-1 Zone

Setbacks in the OR-1-1 Zone.

(a) Front Setback

(1) For that portion of a lot that fronts a cul-de-sac, the minimum front setback may be reduced to 10 feet.

(2) For lots where at least one-half of the front 50 feet of the lot depth has a minimum slope gradient of 25 percent, the setback closest to the street frontage may be reduced to a minimum of 6 feet.

(b) Side and Street Side Setbacks

- (1) For lots exceeding 50 feet in width, each side setback shall be at least 8 feet or 10 percent of the width of the lot, whichever is greater, except one side setback may observe 8 feet as long as the combined dimensions of both side setbacks equals at least 20 percent of the lot width.
  - (2) For lots with 40 to 50 feet in width, each side setback is a minimum of 4 feet.
  - (3) For lots with less than 40 feet in width, each side setback may be reduced to 10 percent of the lot width but shall not be reduced to less than 3 feet.
  - (4) The street side setback is at least 10 feet or 10 percent of the lot width, whichever is greater.
  - (5) For irregularly shaped lots, such as pie shaped lots, the setbacks are based on the average lot width for the first 50 feet of lot depth.
  - (6) For consolidated lots, the width for determining setback requirements is the width of the premises after the consolidation.
- (c) Rear Setback
- (1) The required rear setback is at least 20 feet, except as follows:
    - (A) For lots with less than 100 feet in depth, the rear setback is at least 10 percent of the lot depth, but not less than 5 feet; and
    - (B) For lots with greater than 200 in depth, the rear setback is at least 10 percent of the lot depth.

**Issue #5      Board of Zoning Appeals**

~~§111.0203      Board of Zoning Appeals~~

- (a) ~~Authority. The Board of Zoning Appeals is established by the City Council in accordance with the City Charter, Section 43.~~
- (b) ~~Appointment and Terms. The Board of Zoning Appeals shall consist of~~

~~five members and a designated alternate, each appointed by the Mayor, subject to confirmation by the City Council. Each member shall serve a 2-year term without compensation and shall continue to serve until a successor is appointed. No member shall serve more than four consecutive terms. The members shall be appointed so that the terms of not more than three members shall expire in any year. The expiration date of all terms of appointment shall be March 1. The Mayor may designate one member as chairperson during March of any year. If the Mayor has not designated a chairperson by April 15, the Board shall elect a chairperson from among its members. The alternate shall serve only when a Board member is absent and may not be designated or elected as chairperson. If a member resigns, the alternate shall serve until a new member is appointed by the Mayor. At least one member of the Board must be a licensed design professional.~~

- (c) ~~Meetings. The Board shall meet once a month or as often as necessary for the transaction of its business. The meetings shall be noticed and open to the public. The Board shall adopt procedural rules and policies, consistent with law, for the conduct of its business. Three members of the Board constitute a quorum. The affirmative vote of at least three members is required for any action by the Board.~~
- (d) ~~Powers and Duties. The Board of Zoning Appeals shall hear and determine appeals of general relief variances in accordance with Process Three as specified by Chapter 12, Article 6, Division 8 (Variance Procedures).~~

*(“Consolidation of Processing” repealed and “Board of Zoning Appeals” added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

#### §111.0105 Hierarchy of Decision-Making Authority

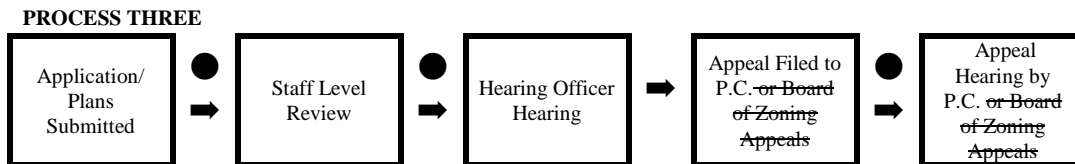
For purposes of the Land Development Code, the hierarchy of decision-making authority for acting upon an application for a permit, map, or other matter is as follows in descending order:

- (a)-(b) [No change]
- (c) Board of Zoning Appeals;
- ~~(d)~~(c) Hearing Officer; and

(e)(d) City Staff.

§112.0501 Overview of Decision Process

**Diagram 112-05A**  
**Decision Processes with Notices**



§112.0506 Process Three Appeals

The Hearing Officer's decision may be appealed to the ~~Board of Zoning Appeals~~ or the Planning Commission, as specified in Chapter 12, Article 6 for the type of *development* and review required. An appeal from a Hearing Officer's decision that involves applications consolidated in accordance with Section 112.0103 shall be heard by the Planning Commission. An appeal from a Process Three decision shall be made in the following manner.

(a) through (c)-[No change]

(d) Scheduling the Appeal Hearing. The appeal hearing before the ~~Board of Zoning Appeals~~ or the Planning Commission shall be held, or the City Manager shall set a date for the appeal hearing, no later than 30 calendar days after the date on which the application for an appeal is filed. The appeal hearing shall be noticed in accordance with Section 112.0308.

(e) Power to Act on Appeal. After the conclusion of the public hearing, the Planning Commission ~~or Board of Zoning Appeals~~ may affirm, reverse, or modify the decision being appealed.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

§126.0804 Decision Processes for a Variance

A decision on an application for a variance shall be made in accordance with Process Three. The decision may be appealed to the ~~Board of Zoning Appeals~~ Planning Commission unless otherwise specified by the Land Development Code.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

Chapter 11 Table of Contents

Amend Table of Contents for Chapter 11 to reflect deletion of BZA.